UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1995/792
14 September 1995

ORIGINAL: ENGLISH

LETTER DATED 14 SEPTEMBER 1995 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit, enclosed herewith, a letter dated 12 September 1995 from H.E. Mr. Radoje Kontić, Prime Minister of the Federal Republic of Yugoslavia, addressed to you.

I should be grateful if you would have the present letter and its annexes circulated as a document of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

95-27873 (E) 150995 180995

Annex

I express deep concern at Croatia's gross violation of United Nations Security Council resolution 1009 (1995) of 10 August 1995 and, by that act, of the basic human rights of the Serbian people, expelled by the Croatian aggression on the Republic of Serbian Krajina. By its continued destruction and looting of the property belonging to Serbs and by the adoption of the "Decree of the Government of Croatia on the Temporary Seizure and Management of Certain Property" of 31 August 1995 (which entered into force on 4 September 1995), Croatia is in outright breach of the provisions of the said resolution, which, in its paragraph 2, demands that the Government of the Republic of Croatia, in conformity with internationally recognized standards and in compliance with the agreement of 6 August 1995 between the Republic of Croatia and the United Nations Peace Forces (a) respect fully the rights of the local Serb population including their rights to remain, leave or return in safety, (b) allow access to this population by international humanitarian organizations, and (c) create conditions conducive to the return of those persons who have left their homes.

The adoption of the said Decree by the Croatian Government is an act without precedent in present-day international practice. It is yet another instrument of the implementation of the Croatian policy of ethnic cleansing, aimed at finally eliminating the Serbs from the Republic of Serbian Krajina and Croatia.

The provisions of the Decree provide for "temporary seizure, use, management and control" of the overall movable and immovable property of the expelled Serbs. From the text of the Decree, it is evident that the real intention is to settle Croats on the estates of Serbs who had left them under the armed pressure of the Croatian army. The effect of this all is to prevent the expelled Serbs from returning to their homes and to change completely the ethnic composition of the population. The next legal consequence, according to the Decree, will be a definitive seizure of the property of the expelled Serbs. In this way, Croatia grossly violates the generally accepted rule of inviolability of private property in the case of territorial changes, thus setting a dangerous precedent in international law with far-reaching consequences for the peace process and for the return of the expelled Serbs from the Republic of Serbian Krajina and Croatia, in particular, as guaranteed by Security Council resolution 1009 (1995).

I recall that the provisions of the Decree are applicable also to the property of the citizens of the Federal Republic of Yugoslavia, as well as of the Serbs living in the territory of the Republic of Srpska, which extends its discriminatory nature.

The forcible expulsion of the Serbs who lived for centuries in the territories of the Republic of Serbian Krajina and Croatia led to the exodus of about half a million Serbs from these areas, which resulted in a humanitarian catastrophe and a wave of human tragedy which fell, with all its ferocity, on the shoulders of the Federal Republic of Yugoslavia, itself in a very difficult position because of unjust United Nations sanctions.

/...

Bearing all this in mind, I request that you start an immediate initiative to protect urgently the movable and immovable property of the Serbs who left the territories of the Republic of Serbian Krajina and Croatia, as well as the property of the citizens of the Federal Republic of Yugoslavia in the territory covered by the said Decree. I also deem it necessary for the Security Council to initiate decisive action to prevent the seizure of property on the basis of ethnic origin, which is unprecedented in the present-day international community and contrary to international law. In particular, it is contrary to the provisions of the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, which explicitly prohibit discrimination on the basis of ethnic origin.

Considering that the destruction and looting of the property of the Serbs have been legalized by the said Croatian Decree, the translation of which is enclosed herewith, and that it is the intention of the Croatian authorities to adopt new legal regulations in this respect, I request the Security Council to prevent by its urgent action these acts of the continuation of the practice of the ethnic cleansing of the Serbian people. In this context, I request that you start an initiative to have the Security Council adopt a decision on extending the mandate of the United Nations peace forces in Croatia to include also the protection of the property and goods of Serbs, until a final peace solution for all territories of the former Yugoslavia is reached, in order to ensure that the human rights of the Serbian people are fully protected and to prevent the policy of ethnic cleansing. I also request that this protection include the vital record books and land registers, which are a condition for the realization of the civil and property rights of Serbs. I request the United Nations to obligate Croatia to protect vital record books and land registers as well as all other documents proving the said rights of Serbs. At the same time I request the Security Council to establish an obligation by the Croatian authorities to compensate the Serbs for all the property that they have had destroyed or looted since 1990.

Convinced that you will show understanding and readiness to respect the facts that I have presented, I request you once again to take urgent measures within the United Nations that would prevent a more aggressive policy of Croatia.

Radoje Kontić

/...

Appendix

Translation*

PEOPLE'S GAZETTE
People's Gazette of the Republic of Croatia
Page 1789 - No. 63 Monday, 4 September 1995

THE GOVERNMENT OF THE REPUBLIC OF CROATIA

1148

Under Article 1, para. 1, of the Law on the Powers of the Government of the Republic of Croatia to regulate certain matters from the purview of work of the House of Representatives of the Sabor of the Republic of Croatia (People's Gazette, No. 79/94), the Government of the Republic of Croatia, at its session held on 31 August 1995, adopted the following

D E C R E E

on the temporary seizure and management of certain property

Article 1

This Decree regulates the temporary seizure, use, management and supervision of the property of physical entities specified by this Decree for the purpose of its protection and ensuring the claims of creditors in connection with this property.

Article 2

As of the date of the entry into force of this Decree, the property located in the previously occupied and now liberated territory of the Republic of Croatia abandoned and not personally used by its owners shall be placed under the temporary management of the Republic of Croatia and used in accordance with this Decree.

As of the date of the entry into force of this Decree, the property located in the territory of the Republic of Croatia owned by the persons who left the Republic of Croatia after 17 August 1990 or are in the occupied territory of the Republic of Croatia and in the territory of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" or in the occupied territory of the Republic of Bosnia-Herzegovina and do not use that property since the day of departure, shall be placed under the temporary management of the Republic of Croatia.

As of the date of the entry into force of this Decree, the property located in the territory of the Republic of Croatia owned by the citizens of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" who do not use it personally shall be placed under the temporary management of the Republic of Croatia and used in accordance with this Decree.

The provisions of this Decree shall not apply to the property which is the joint ownership of the nationals of the Republic of Croatia and persons who are not Croatian nationals.

---

* Reproduced as received from the Permanent Mission of Yugoslavia.

/..

Article 3

The property in the sense of this Decree shall be considered all movable and immovable property, in particular.

- agricultural estates comprising residential and economic buildings, land and other immovable property and the appurtenant movable property (livestock and other domestic animals, transportation means, tools and other equipment, furniture, etc.),
- residential buildings with adjacent area and apartments (hereinafter "buildings") and furniture and other movable property therein,
- shops and offices and other immovables (garages, storages, depots, etc.) and the movable property therein,
- vehicles, boats and ships, tools, equipment, etc.

Article 4

The possession of the property placed under the temporary management of the Republic of Croatia according to this Decree shall be taken by the municipality, i.e. town or the City of Zagreb (hereinafter "municipality, i.e. town") in whose territory it is located.

The municipal, i.e. town authorities shall establish a Commission for the Temporary Seizure and Use of the Property (hereinafter "the Commission") which shall make an inventory of the property and shall have other powers provided for by this Decree. The property inventory shall be forwarded to the Ministry of Development and Reconstruction which keeps property records.

The Commission from para. 2 of this Article shall comprise of one representative of the Ministry of Development and Reconstruction, Ministry of Defence, Ministry of the Interior, Ministry of Labour and Social Welfare, Ministry of Agriculture and Forestry, Bureau of the Government of the Republic of Croatia for Expellees and Refugees, Public Attorney's Office, municipal, i.e. town authorities and, if necessary, of other persons. The President of the Commission shall be determined by the act on the establishment of the Commission.

More than one commission from para. 1 of this Article can be established for the territory of a municipality, i.e. town.

Article 5

The Commissions from Article 4 of this Decree may place the property from Article 2 of this Decree in possession and use to the expellees and refugees, returnees who had their property destroyed or damaged in the homeland war, to persons disabled in the homeland war, families of killed and disappeared Croatian defenders in the homeland war and other persons engaged in the activities necessary for the security, reconstruction and development of the previously occupied territories.

Decisions of the Commission can be appealed with the Ministry of Justice within 8 days. An appeal does not stop the execution of a decision.

/...

On the occasion of placing the property in possession and use, the minutes on the condition of property and its placing in possession shall be made.

Article 6

The work of the Commissions from Article 4 of this Decree shall be directed and adjusted by the Ministry of Development and Reconstruction and the Minister of Development and Reconstruction can, if necessary, issue instructions for the implementation of this Decree concerning the property and the persons in whose possession and use the property is being placed.

Article 7

The persons who, under Article 5 of this Decree, have been given in possession and use the property from Article 2 of this Decree shall have the duty to manage the property as good masters, shall have all the powers belonging to the owner of the property in its protection against third persons and can use the proceeds from the property for their own needs.

The persons from para. 1 of this Article cannot dispose of the immovables constituting part of the property (sell, exchange, let, lease, rent with or without charge, mortgage or use it towards any other lien) and cannot dispose of transportation means and livestock without consent by the Commission from Article 4 of this Decree.

Legal transactions concluded contrary to para. 2 of this Article shall be considered null and void.

Article 8

While the property is managed by the Republic of Croatia, the owner cannot dispose of it (sell, exchange, let, lease, rent with or without charge, mortgage or use it towards any other lien, etc.).

At the proposal of the Minister of Justice, the Government of the Republic of Croatia may exempt certain property from the prohibition of disposal for the purpose of executing a legal transaction whereby the right to ownership is acquired by Croatian nationals or members of the Croatian people for humanitarian and other justified reasons.

Legal transactions concluded contrary to para. 1 of this Article shall be considered null and void.

Article 9

The Commission from Article 4 of this Decree may rescind a decision from

best copy available

/...

Article 5 of this Decree if a person or persons given the possession and use of the property:

- do not manage the property as good masters,
- acquire the possibility to return and use their own property,
- manage the property contrary to the provisions of this Decree.

Article 10

If the owner of property from Article 2, para. 1, of this Decree returns to the Republic of Croatia within 30 days from the date of the entry into force of this Decree and requests its return into his/her possession and use, the Commission from Article 4 of this Decree shall rescind the decision from Article 5 of this Decree.

The decision by which the Commission has rescinded its decision from Article 5 of this Decree can be appealed by the owner of the property, the person to whom the property was given in possession and use and the Public Attorney with the Ministry of Justice within 8 days.

The person who had the right to possession and use of the property ceased by a valid decision under para. 2 of this Article cannot be deprived of the possession until he/she is ensured possession and use of other adequate property.

Article 11

Ownership of the movable property from Article 2 of this Decree cannot be acquired by appropriation (occupation).

Article 12

The persons who possess and use property from Article 2 of this Decree contrary to the provisions of this Decree shall be deprived of the property by a decision of the Commission from Article 4 of this Decree.

This decision cannot be appealed, but can be contested in a legal action before an administrative court. Administrative enforcement of the decision shall be carried out by the body which has taken it.

Article 13

The provisions of the Law on the General Administrative Procedure (People's Gazette, No. 53/91) shall apply to administrative matters in accordance with this Decree, unless otherwise provided by this Decree. Administrative matters from this Decree shall be solved in streamlined procedure.

/...

Article 14

A separate law shall regulate the ownership of the property placed under the management in accordance with the provisions of this Decree which has not been returned into the possession and use of the owner.

Article 15

The Minister of Justice shall be empowered to adopt, as necessary, the regulations concerning the implementation of this Decree, except for the execution of matters from Article 6 of this Decree.

The implementation of this Decree shall be monitored by the Ministry of Justice.

Article 16

This Decree shall enter into force on the day of its publication in the People's Gazette.

Class: 370-01/95-01/14
Decree No.: 5030109-95-1
Zagreb, 31 August 1995

President
Nikica Valentic